

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION

Civil Action No. 4:2015-cv-01649-RBH

Nationwide Life and Annuity Insurance Company,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	JOINT MEMORANDUM
Margaret Rose C. Sims, as the duly appointed	)	
Representative of the Estate of	)	
David Lee Sims, Jr. and Heather Sims,	)	
	)	
	)	
Defendants.	)	

The Defendants, Margaret Rose C. Sims and Heather Sims, submit this joint memorandum in response to the court's test order of April 18, 2016:

1. This is an interpleader action brought by Nationwide Insurance Company.
2. Nationwide had deposited its funds with the Clerk of Court and the other parties have been enjoined from proceeding against Nationwide. (ECF 16, 18).
3. Defendant Heather Sims has been convicted of voluntary manslaughter after an 9 day trial in Horry County. Post-trial motions have been filed and are under consideration by the trial judge in the Horry County trial.
4. The Defendants have agreed to try this matter in the Probate Court for Horry County. The Horry County Probate Court would have jurisdiction over the dispute between the Parties under

Section 62-3-301 of the South Carolina Code of Laws<sup>1</sup>

5. The Parties will submit a consent order to stay this case under there is a final determination by the Horry County Court. Because an affirmance of the conviction would extinguish the claim of Heather Sims to the proceeds without an additional trial the stay is likely to last several years.

6. The Parties know of no authority for transferring the fund to the Probate Court other that the plenary power of this court to do so by consent of these parties as the only interested parties.

7. The Defendants would consent to the entry and a final order as Nationwide and a disbursement of the attorney's fee award.

8. The matter is not ready for trial in this court and the Defendants request a continuance.

Respectfully submitted

/s/Louis D Nettles  
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<sup>1</sup> Subject of the right of a party to remove the case to the Circuit Court under S.C. Code 62-3-302 (d)

Florence, South Carolina  
April 22, 2016